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RAILROAD PROBLEMS IN A WESTERN STATE.

I.

THE railroads of a single state, and especially of a Western state, have no organic unity. The expression "Nebraska railroads" can refer only to a group of interlacing lines arbitrarily marked off from the continental network. The 5440 miles of railroads in Nebraska are almost entirely under the control of five or six systems, each of which has its controlling offices and much more than half its mileage outside the state. These great systems, reaching up from St. Louis, out from Chicago and away to the mountains and the Pacific coast, care nothing for state boundaries. The growth of large plans in the minds of railway managers is well indicated by the manner in which the Chicago, Burlington and Quincy Railroad has outgrown its original name and purposes. When first organized its name indicated what was then a fact, that it was located almost exclusively in Illinois. Then it extended itself across Iowa under the name of the Burlington and Missouri River Railroad. The limit indicated by this name was soon passed, and under the name of the Burlington and Missouri River Railroad in Nebraska, it has proceeded to occupy some of the best railroad territory in the latter state. But the last name no longer suits the western extensions of the Burlington system, for it has passed through Nebraska into Kansas, into Colorado, into South Dakota, and into Wyoming, and it is suspected of an intention to go on to Puget Sound. By origin and purpose the "B. & M. R. Railroad in Nebraska" extends much beyond the borders of the commonwealth that is its titular home.

In financial power, as well as in geographical extent, the railroad systems indefinitely surpass any state that their branches

happen to cross. While the annual revenue of the state government of Nebraska, including certain school moneys apportioned to the counties, is between two and three millions, the annual earnings of the several railroad systems represented in the state range from ten to thirty millions each. It will be seen how disproportionate is the financial strength of the antagonists, if only one of the railroads is at issue with the state on a given question ; and on a question where it is the state against all the railroads, the odds are still more in favor of the latter. This command of larger resources is one thing that enables the roads to command the services of abler men than are available for state offices. The governor and the judges of the supreme court receive but \$2500 per annum, the voters of the state having recently rejected an amendment to the constitution raising the salary of the judges. On the contrary, the salaries of the resident railway officials range upwards to \$20,000 per annum and are supposed in some cases to go above this. While it often happens that a \$2500 judge may be the superior of a \$10,000 attorney, yet high pay and relatively sure tenure cannot but have their influence in attracting able men to the service of the employer that offers them.

Further sources of the weakness of the state in its contentions with its children, the railroads, are the limits imposed on its actions by the federal government. This aspect of the matter may best be described, in all its indefiniteness, by quotations from the report of Chairman Crocker, of the committee on railway legislation, to the second annual convention of railroad commissioners, held at Washington last May. After saying that "the decisions of the courts throw shadows as well as lights upon the subject," he adds :

While the limits of the powers of Congress to regulate our railroads cannot be defined with certainty, it is sufficient for the purposes of this report to bear in mind that the constitutional right to regulate interstate commerce has within the past fifteen or twenty years been developed and declared to an extent which before that time none but dreamers imagined. The indications are that many of our state laws, if carried to the Supreme Court, would be held to be unconstitutional, and many

others have validity only so long as Congress neglects to cover the same ground.

Whatever may be the proper limits of the powers of Congress ; whether it is or is not true that the states, by allowing their railroad corporations to take part in interstate commerce, have thereby parted with all but a shadow of control over the subjects of their creation ; whether such railroads in their growth have or have not practically broken their mothers' apron strings, and, having come of age as it were, are now free from her control, and in all essentials subject only to the higher power of the United States ; — still it must be admitted that these are far reaching and perilous questions, and that it is expedient that changes from these conditions should be made slowly.

The tendency of the times, however, is to force the issue with alarming rapidity. Every inconvenience, delay and expense to the public or the railroads connected with the billing and transportation of interstate freight, or with the ticketing and carriage of through passengers, and growing out of the limitations imposed by state or corporate lines of division ; every case of excessive and unreasonable regulation, of lax and careless supervision by state authorities ; every corrupt or ignorant legislature ; every instance of conflicting regulation or management, of whatever nature, resulting from state lines ; every attempt by a railroad corporation to escape state regulation by pleading that such regulation is unconstitutional, as interference with interstate commerce ; every cut-throat struggle between competing lines and, finally, the panacea for most of the foregoing evils, every consolidation, — furnishes an argument against state regulation and in favor of Congressional control.

Besides the limitations necessarily imposed on state power by the foregoing causes, the state government is further rendered gratuitously impotent by what may be termed constitutional paralysis. The legislature is underpaid, is forbidden to create any new state offices and is limited to a sixty days' session once in two years. The governor is absolutely without power to do anything positive, whether for good or evil. He may interfere with the courts by pardoning criminals, or he may interfere with the legislature by vetoing bills ; he may, if he has the courage, call an extra session of the legislature. He has no appointing powers of any real value. In times of peril, which are rare, he might have important duties to perform ; but on ordinary occasions there is nothing for him to attend to but "dignity business." The state board of transportation is

wholly independent of him. This board is a clumsy piece of machinery, — inevitably clumsy because of the provision of the constitution which forbids the creation of any new state offices. The present constitution was adopted shortly after the state had been visited by the scourge of grasshoppers, and this provision, as also many others, was inserted to prevent all possibility of legislative extravagance. The result of this distrust of their representatives on the part of the people has been to make the state government necessarily awkward, but not necessarily economical. The board of transportation was created subsequently to the adoption of the constitution. It was provided that five of the state officers, the attorney-general, the treasurer, the auditor, the secretary of state, and the commissioner of public lands and buildings, should constitute such a board, and should be endowed with the usual powers of investigation and control over the railroads in the state. These five officials, who usually are and always ought to be elected to the offices they hold from other considerations than their opinions about the control of the railroads, who usually know nothing about railroad problems, and whose other duties are too numerous to afford time for the study of these problems, — get together and elect three “secretaries.” These secretaries receive salaries and do all the work, but have no powers except those of investigation and of report to the *ex-officio* members of the board. Upon the latter falls all the responsibility for action or inaction. The board costs as much as an efficient commission might, but is so organized as to preclude any possibility of its being efficient.

If we compare with the above cumbrous and unworkable machinery the organization of a railroad company, with its definite lines of responsibility radiating from some controlling centre, we get a view of yet another reason for the relative weakness of the state in dealing with her over-grown children.

It should of course be said that the taxing power of the state and its right of eminent domain must give it the preponderance of power whenever an issue is squarely drawn between the state

and the railroads. In minor matters of litigation, where cases are tried with a jury, the corporations are at a decided disadvantage. But methods of legal procedure are such that this last item is of ever lessening importance; and the railroads are careful to raise no issue that directly challenges the sovereignty of the state. So long as the roads are able to keep to their Fabian tactics, the advantages are on their side as indicated above.

II.

About ninety per cent of the freight traffic in which Nebraskans are directly interested is of an interstate character. Local rates are a comparatively unimportant matter. With this understanding of the importance of interstate rates, a glance at the following table would seem to indicate that the citizens of the state could have nothing very grievous to complain of, since the tendency of rates has been steadily downward during the last decade, and the rates are lowest on precisely those things most essential to the prosperity of the state. A fall of one cent per hundred pounds between Chicago and Lincoln means a decrease of \$0.000368 in the charge per ton per mile; and a similar fall in a rate between Chicago and Hastings means a decrease of \$0.000312 in the charge per ton per mile. (See table, page 71.)

But in a criticism of the showing here made it must be said that the earlier rates were largely nominal, at least so far as favored stations and favored shippers were concerned. Rebates made the actual rates much lower than those published. The sharp fall in rates during the year 1887 which the table indicates was merely a lopping off of figures that had long been purely nominal, and which were dispensed with in deference to the act to regulate commerce. It has been further urged that an increasing volume of traffic and the decreasing cost of constructing railroads call for still greater reductions than those indicated. Those who are most radical in their criticism of the railroads also aver that rates on Eastern roads are much less per ton per mile; that the roads have made exorbitant profits

SCHEDULE OF FREIGHT RATES BETWEEN CHICAGO AND NEBRASKA POINTS, SHOWING ALL CHANGES IN RATES FOR TEN YEARS PRECEDING JUNE 30, 1890.

[illegible]

on the money actually invested in them ; and that, finally, the rates are still so high that all the industrial interests of the state, and especially the agricultural interests, are depressed in consequence.

During the year 1890 both the Interstate Commerce Commission and the Nebraska board of transportation undertook elaborate investigations for the purpose of determining what rates were "reasonable," in the one case on interstate traffic and in the other on local business. All parties interested in these investigations admitted that cost of service should be so far considered in fixing rates that a "fair" return might be made to the owners of capital actually invested in the roads. Some of the difficulties encountered when an attempt is made to apply this rule will now be reviewed.

The public has been so educated in such matters that it will no longer accept a statement as to the capitalization of a road as even *prima facie* evidence of the amount of real capital invested therein. When railroad organs point to stock that yields no dividends, or to bonds on which the interest is not paid, people merely shrug their shoulders and wait for further information. Watered stock may be said to be the stock in trade of the anti-monopolist. The Interstate Commerce Commission says that before we can decide rates to be unreasonably low which do not make possible the payment of interest on bonded debt and dividends on capital stock, we must be assured that the obligations are actual and in good faith. The commission points out that the Santa Fé and the Alton roads run side by side from Kansas City to Chicago. Their rates must necessarily be the same ; yet the former is capitalized at the rate of \$92,000 per mile and the latter at the rate of only \$46,000. In the same way the capital stock and bonded debt of the Burlington and Missouri River Railroad in Nebraska is given as \$37,000 per mile, and that of the Fremont, Elkhorn and Missouri Valley as \$36,000. These two parallel on either side the Union Pacific, which is capitalized at \$105,000 per mile. The state board of transportation in its investigations ignored wholly the nominal capitalization of the roads, and based its

calculations on sworn statements as to the cost of construction and betterments.

For the purposes of the present paper the Burlington and Missouri River Railroad in Nebraska will be taken as a typical system, and the others will be referred to only incidentally. The 2213.37 miles of line belonging to this road traverse both the thickly and the thinly settled portions of the state, and a further reason for taking this system as representative is that it entered the state at an early day and has experienced all the vicissitudes that attend the development of a pioneer enterprise. As an example of the showing that can be made against the claims of this road that it is equitably entitled to charge its present rates, on the ground that they yield only a moderate profit on investment, I reproduce the leading points from a paper by Mr. C. G. Dawes, of the Lancaster county bar, which was published last summer in one of the state dailies. It is an unusually careful and conservative argument on the anti-monopoly side of the discussion.

Mr. Dawes first points out that on December 1, 1873, three years after the road entered the state, the corporation had, according to Poor's *Manual*, over forty-five per cent of its whole funded indebtedness and paid-in stock in assets arising from the sale of less than one-fourth of its land grant. He brings out this fact as an answer to those who say that the risk of these early enterprises was so great as to entitle the investors and their assigns to exemplary profits; and he argues that enlistment in such an enterprise "could hardly be considered an evidence of financial heroism." Coming to more recent times, he finds from the reports of the road to the state board of transportation, that the funded indebtedness of the Burlington and Missouri in Nebraska, plus the amount that had been realized from the land grants at the close of the year ending June 30, 1888, amounted to \$23,050.94 per mile of line. About one-sixth of this amount came from the sale of land. To prove further that the road consistently pursues a policy of constructing lines from the proceeds of first mortgage bonds,

Mr. Dawes collates the following table from the annual reports of the road to its stockholders :

Year.	Miles of new line built.	Am't paid for construction and equipment.	Bonds issued during the year.	Average rate of interest on bonds.
1886	389.988	\$8,168,314.93	\$2,870,200.00	4.9 per cent.
1887	657.350	15,131,542.95	12,000,000.00	4.0 " "
1888	223.894	5,293,040.74	8,901,280.84	4.2 " "
1889	223.540	3,925,746.58	8,412,000.00	5.0 " "
Totals	1494.772	\$32,518,645.20	\$32,183,480.84	

Mr. Dawes, following an estimate of Mr. Holdrege, estimated the cost of the lines of the Burlington and Missouri River Railroad in the state at \$25,000 per mile, and proceeded to show that in a prosperous year, that ending June 30, 1887, the stockholders received 68 per cent on all the capital they had actually invested in the road, — which amounted, according to his estimate, to only \$1949 per mile.¹

¹ The conclusions were so startling, and the possibility of mistakes in such a matter so great, that I called the attention of Mr. Holdrege, general manager of the Burlington and Missouri in Nebraska, to the figures, and asked that he would either point out any fallacies they might contain, or indicate the sources of information that might enable me to correct possible errors. He replied by saying that Mr. Dawes had "omitted to take into account bonds that had been retired," but failed to cite any sources of information that would enable me accurately to determine the amount of error thus caused. Instead, he made the following *ex parte* statement regarding the finances of the road :

Total cost of Burlington and Missouri River Railroad in Nebraska,
lines west of Missouri River, Dec. 31, 1889 \$89,761,807.71
or \$30,435.06 per mile.
Total stock and bonds issued 77,864,460.00
or \$26,401.09 per mile, of which \$17,955.17 was bonds.

He explains that the cost of construction over capitalization is mainly accounted for by the land grants. It will be noticed that the statement here made regarding the cost of construction in no wise tallies with sworn statements made by the officials of the road to the state board of transportation last summer. These statements are given later in the text. For reasons also explained further on, it is hazardous to accept any statement regarding the capitalization of a given part of the Chicago, Burlington, and Quincy system unless we have the data for criticising the theory on which capitalization has been apportioned to such part. Such data Mr. Holdrege does not give.

The difficulty with all such computations as the foregoing is that it is impossible to say how much of the total indebtedness of such a system as the Chicago, Burlington and Quincy, which owns the Burlington and Missouri, ought to be assigned to the roads in a given state or district. The report of the state board of transportation for 1890 adopts the usual method of determining the bonded indebtedness of lines in Nebraska. The average amount of bonded indebtedness per mile for the whole system is multiplied by the number of miles of road belonging to that system within the state, and the product is assumed to be the bonded indebtedness for the Nebraska lines. Computing by this method, we have the following statement as to the capitalization of the lines within the state operated by the Chicago, Burlington and Quincy during the year ending June 30, 1890:¹

Bonded indebtedness	\$46,892,456.82
Capital stock	33,694,131.51
Total capitalization	<u>\$80,586,588.33</u>

According to the sworn reports of the officials, the cost of construction and betterments of these roads was \$22,738.65 per mile, aggregating for the present mileage \$50,325,045.75. If from this total cost of construction we subtract the \$8,452,203 which is the net proceeds obtained by the road from the sale of lands given it, and also the \$2,372,800 of bonds that have been donated by counties, precincts and municipalities along the lines of its various branches, we find that the remaining net investment amounts to only \$39,504,042.75, which is less than half the total capitalization, and much less than the amount of the bonded indebtedness. This would indicate that the stock is somewhat more dilute than pure water.

But the assumptions made in thus estimating the capitalization of the lines in Nebraska are arbitrary and unfair. To apportion capitalization according to mileage is unjust to the road, because

¹ The absence of page references to the board's report for 1890, and the possible appearance of minor inaccuracies in the figures are due to the fact that I was obliged to use the MS. of the report, before it went to the printer.

the divisions east of the Missouri river have cost far more per mile than those in Nebraska. It may be doubted if the officers of the Chicago, Burlington and Quincy have any way of telling what proportion of the total capitalization of their system ought to be apportioned to any particular branch. Some of the extensions are built wholly with borrowed money, but they could not be so built were not the credit of the parent company behind them. Other portions of the lines within the state are wholly unmortgaged. Consolidated mortgages and fresh issues of stock further complicate matters; and all reports regarding capitalization made to state officers are apt to be especially confused and confusing.

Putting aside, then, all questions of capitalization, we will consider the relation of net investment to net earnings. As given above, the net cost of the Burlington and Missouri lines within the state is \$39,504,042.75; and the earnings during the last fiscal year above operating expenses and maintenance, as reported to the state board of transportation, were \$2,989,735. The interest on the net investment yielded by the net earnings is thus seen to be a trifle over 7.5 per cent.¹ The year was one in which there was a large corn crop to be moved.

It is urged against such a presentation of the case as this that the figures are only a shade more reliable than those regarding capitalization. In the first place the amount of earnings that can properly be credited to the lines in a single state must be in part estimated according to more or less arbitrary methods. The reports of the company give the earnings of all the lines west of the Missouri river, as nearly as they can be ascertained, and the amount to be credited to Nebraska is made proportional to the number of miles within the state. In this particular case such an estimate probably gives an amount that is too small rather than too large.

In the second place it is urged that instead of basing our estimates on what it has cost to build a road, we should rather consider what it would cost to rebuild it. It is said that if a man

¹ This result differs from that reached by the state board because they took no account of the land grant and donated bonds.

builds a house when materials and labor are high, he cannot hope when prices have fallen to rent it for more than will yield a fair return on the present cost of building another like it. It is held that what competition would bring about in the case of house building, legislation may properly provide for in the case of railroads; and inasmuch as the roads were many of them built at a time when the prices of materials and labor were very high in the new state, it is only right that the shrinkage in value should be recognized and allowed for. In reply to such reasoning the railroad people question both the facts and the deductions from them. They say that while the cost of roadbed and rails may be much less at present than it was formerly, yet the cost of right of way and of terminal facilities has grown with the growth of the state, and that the increase in this regard more than offsets the decrease in the other. But they further urge that even if the railroads should be shown to have been built at a time when their total construction cost more than it would at present, yet since it was essential to the development of the state that they should be built at that time, it is unfair to the early promoters to withhold profits on their investments.

In the third place, some of the anti-monopolists go farther and question the truth of the statements as to cost of construction made by the roads to the state board of transportation. They urge that the roads were admitted as witnesses in their own trial and were not cross-examined. There is enough truth in this to justify the conviction that the roads have placed the cost of construction at a sufficiently high figure; but at the same time their statements were made in such detail, and under such exposure to adverse criticism, that gross misrepresentation was hardly probable.

Admitting that the actual cost of construction should be made the basis of estimating profits and that this cost has been approximately stated by the roads, seven per cent on an investment does not seem to a Western man like a very exorbitant rate of interest. But what excites his wrath is, that nearly all of the money really spent in building the roads has been borrowed at five per cent or less, and the difference between

this rate and the rate earned goes to stockholders who seem to have little or nothing invested. The risk incurred by such stockholders as guarantors of the bonds does not seem to him to be an adequate basis for such large profits.¹

Should it be asked why such very dubious figures are given and reviewed at such length, the answer must be that it is because just such figures as these are the best that a state legislator can obtain to guide him in his work. He has no power to investigate the cost of construction, bonded debt and capital stock of a whole railroad system, and even if he could make such an investigation, the results of it would not much aid him in legislating for his one state.

Were all the questions raised in the foregoing discussion settled, there would still remain the matter of superfluous roads to be dealt with. At the conclusion of its report on the relation of net earnings to cost of construction the state board of transportation says :

A close analyzation of the figures of cost and earnings of the lines south of the Platte river and east of the rooth meridian is conclusive proof of where the difficulty lies. A third less railroad mileage would perform equally as well the accommodation required by the public. There would be some fifteen millions less capital demanding of the public an income, and rates might be reduced proportionately. It is doubtful if any community now possessed of these surplus roads would be willing to surrender them for the advantage of lower rates.

The Interstate Commerce Commission calls attention to the fact that there are eight roads or lines carrying between Chicago and Kansas City ; a less number might do the business as well and more cheaply. If eight more were built, would it be allowable for them to charge twice as much as at present ? Again, many roads are built for ulterior purposes across undeveloped and partially barren country. "The Fremont and Elkhorn Valley road is 700 miles long, but 125 miles takes it outside the

¹ Another fact which indicates that the Chicago, Burlington and Quincy is paying for new construction entirely with borrowed money is that 1,484,772 miles of new line were built or acquired during the four years ending December 31, 1889, while during the same time the capital stock of the company was increased only \$12,405. See annual reports to stockholders.

Nebraska corn belt, beyond which the traffic is light. What part of the whole burden of maintaining the road must the corn pay?" The branch of the Burlington and Missouri River Railroad stretching away from Grand Island to the north-west corner of the state and off into South Dakota and Wyoming seems to be constructed for the purpose of holding territory, and partly for the purpose of making connections in the far north-west that will eventually be of importance in transcontinental competition. May Nebraska grain rates or local rates be properly advanced in order to pay interest on the money invested in this road until such time as it becomes self-supporting?

These lines through undeveloped and semi-barren districts may or may not be eventually profitable; they may or may not be eventually paralleled by hostile companies. In any case they are not profitable at present, and there is a very practical question as to where the burden of their present maintenance should rest. A railroad organ, after commenting on the situation in Nebraska and remarking that it is not the only state similarly circumstanced, goes on to say:

But the people are responsible for this, and not the companies. The people who, as soon as one line is built to any point, cry "monopoly" and clamor for "competition," who offer bonuses and pledge their support to induce a rival company to build, and who, at the same time, are the only parties who through their legislature and commissions can take the necessary steps to prevent the building of parallel lines,—the people are alone responsible for it, and they cannot shift the blame from their shoulders.¹

Even granting that the public has made a mistake in trying to perpetuate and intensify competition in an industry where competition is a delusion and a snare, it may still be doubted whether the much-chidden public is not more sinned against than sinning. Those who know the history of Western railroad building are aware that subventions offered to new lines are hardly the treacherous bribes of a wily public trying to seduce capitalists into an unprofitable investment. It is doubtless an unwise policy, but the arguments in favor of "competing lines"

¹ *Northwestern Railroader*, July 25, 1890.

have been urged upon the public by the advance agents of every new road that has sought entrance to a rival's territory. It has been the paid pleading of railroad attorneys and organs that has convinced the people that railroad competition is a good thing; and if, as the state board suggests, the people of the state would not give up the superfluous roads for the sake of lower rates, it is largely because they have been wrongly educated by the roads themselves.

Probably real estate speculators are more often responsible for the building of superfluous roads than any other one class. The Lincoln Land Company has operated along the line of nearly all the extensions of the Burlington and Missouri River railroad. It is made up largely of resident railroad officials, who are high enough up in the councils of the company to secure prompt information as to proposed extensions, and to have considerable weight in shaping the course of lines actually building. Members of such a company derive profit from all extensions, whether called for or not; and while their interests as railroad managers may usually outweigh their interests as land speculators, yet this is not always true. The influence of such men upon the companies is seconded by the influence of local real estate dealers in the districts through which a proposed road is to pass. Whatever may be the results of building a new line to the community as a whole, the owners of real estate along its route are sure to profit by its construction. After the state board of transportation had given its opinion that south-eastern Nebraska had a third too many railroads, the city of Lincoln voted \$50,000 in bonds as a bonus to the Rock Island road for constructing a new line from Omaha, though the two cities were already connected by four different roads under as many managements. The Lincoln real estate dealers were certainly justified, from the standpoint of their own selfish interests, in inducing the people to vote these bonds. Indeed, the city as a whole may have been benefited. But it would be very hard for the company to show that the entire community is better off in consequence of the building of the new line. Much might be said in favor of the view that the towns, and especially

owners of realty therein, are the beneficiaries of superfluous railroad building and are mainly responsible for it ; while upon the farming community chiefly rests the burden of supporting the needless lines. Probably the farmers, who this winter control the Nebraska legislature, could render the community, and especially themselves, no greater service than that of passing a law like the Massachusetts statute which compels a railroad company to prove public need of a new line before being allowed to build it.

III.

But even were the difficult problems of cost of construction and actual investment solved, and did we know exactly whom to punish for the building of needless lines,—that is, had we a basis admittedly sound for figuring “reasonable profits,”—this would be a criterion only for fixing a maximum of net earnings ; it would not help us at all in apportioning the burden among the different patrons of the road. When left to themselves, the roads discriminate between commodities, between places and between persons. The last is admittedly the worst form of discrimination. It is forbidden by both state and federal statutes, but recent investigations instituted by the Interstate Commerce Commission show that it is still extensively practised at the West. The managers of the various lines feel that it is better to do work at rates which barely cover the operating expenses than not to do any work at all ; and the large shippers at competitive points know so well how to play off one road against another, that rates from these points continually tend toward an unremunerative minimum. When roads are not actually cutting rates, the shippers can often cause one or more of them to be suspected of doing so, and an imaginary cut is met by a real but secret one. These secret rates are necessarily limited to favored shippers. So long as the corporations have no organization among themselves, all the shrewdness and all the far-sightedness of their managers cannot

prevent these artificial giants from accepting "starvation wages" for their services.¹

Violent discriminations between places have been forbidden, against the protests of the roads, by the long and short haul clause of the Interstate Commerce Act and frequently by state laws. But there are still many ways of favoring pet towns. For a considerable time the roads from Chicago to the Missouri river gave special through rates to the river towns. For places farther west the through rate from Chicago was made by adding the rate to the river to the ordinary local charge for the additional distance. As the river towns already had specially favorable distributing rates, it became impossible for jobbers in the interior of the state to compete with the jobbers of Omaha and places similarly situated. One of the places that considered itself especially injured by the then existing arrangements was Lincoln. In 1887 the board of trade organized a freight bureau and prepared for a vigorous fight. A railroad expert was employed at four thousand dollars per year to prepare the case against the roads, and plenty of money was forthcoming to meet the incidental charges of the campaign. The citizens of Lincoln alleged that the roads were favoring Omaha because many of their officers had investments there; and there was a general feeling that unless Lincoln could get better rates her growth was definitely limited. The fight was well pushed; Lincoln was successful and has never since been a centre of anti-railroad agitation.

What was won by Lincoln was not won by the whole state. The railroads still make through rates to the Missouri river, and then add to these the regular local rates on through shipments to small interior towns. A case that has been cited in the current discussions in the state is that of Kimball. It is a small town 450 miles west of Omaha. The through rate on

¹ There is a close analogy between the inability of unorganized laborers to maintain wages at a "living rate," and the inability of independent and competing roads to maintain remunerative rates. In each case there is a tendency for wages or rates to fall to a point that just meets "current expenses," without providing in the one case for the proper nourishment and education of the laborer's family, and in the other for betterment of the road and a fair interest on investments. The explanation is, in part, that it is impossible for either the road or the laborer to be long idle; and those who bid for their services count on this.

a car of stoves from Chicago to Omaha, a 500 mile haul, is \$84. The local rate from Omaha to Kimball, a 450 mile haul, is \$300; while the through rate from Chicago to Kimball is \$384. It will be seen at once what an immense advantage this gives to the towns having low through rates.

It is this method of forming through rates to the small places, — which are also those unable to make a vigorous resistance, — that adds intensity to the demand for a statutory distance tariff upon which to base all local rates. Iowa has such a tariff. Whether it has resulted in a way satisfactory to the people of the state is not yet determined. It has pretty certainly checked the growth of Iowa's "distributing centres"; but whether it has benefited the state as a whole is a much debated question. The roads have done all they dared to get revenge for the enactment of this maximum-rate law. As a rule a Western state is inclined to use its power over local rates merely as a means of frightening the roads into making lower through rates. In Lincoln's fight with the roads she began proceedings to compel them to reduce local rates; and the state board went so far as to issue an order for the specified reduction of such rates. But the roads compromised by substituting a schedule of local rates prepared by themselves, and offering reduced rates from Chicago on hard coal and on lumber from eastern and northeastern points, and to Chicago on grain from all Nebraska points.

The manner in which discriminations between commodities may be made to effect discriminations between places is well illustrated in the matter of rates on live stock, as compared with those on packing-house products. The charge for transporting a car of live stock, as the rates were fixed before the recent order of the Interstate Commerce Commission, was much greater than the charge for transporting the packing-house product of the same amount of stock. The result was to build up the packing houses of Kansas City, Omaha and other places at the west. The fight before the commission was made on the one side by the Chicago board of trade, and on the other by the packing-house interests of the western towns. The railroads were little more than nominally represented. The result was a

victory for Chicago, the commission holding that there was not enough difference in the cost of the service to the carriers to justify the discrimination in favor of the packing-house products. They also brushed aside, in a rather peremptory way, the argument that so much capital had been invested in western packing houses on the basis of the old rates, that it would be unjust to great vested interests to change them. The case well shows the dependence of Western communities upon even minor matters in the classification of goods and the fixing of rates; and possibly, too, it shows that the interests of the towns may not be identical with the interests of the entire Western community, or with the interests of the country as a whole.

It will thus be seen that even if the legislature decide upon a satisfactory rule for limiting the gross receipts of the railroad companies, it would still be at a loss in fixing the share of this amount which any given class of traffic ought to bear; that is, it would have no guide in making specific rates on given commodities. In the fall and winter of 1889-90, when an enormous corn crop was to be moved and when the price of this commodity was so low that it was used as fuel in many of the western counties of Nebraska, the ground was often taken that rates ought to be so adjusted as to enable the producers of corn to realize a fair profit from their product. This idea even found indirect expression in the resolution passed by the United States Senate, calling upon the Interstate Commerce Commission to investigate and report upon alleged excessive freight rates and charges on food products. The decision of the commission subsequent to this investigation was probably the most important one it has ever rendered. In the opinion written by Commissioner Morrison is shown very clearly the fallacy of arguing that railroads are bound to give such rates as will insure a fair return to producers of given commodities. Attention is called to the fact that there is good clay for making bricks in Nebraska: bricks are needed in New York; but it does not follow that the railroads should be compelled to make such rates on bricks that they can be manufactured in Nebraska for the New York market. So with corn. The railroads are bound to make as low a

rate as possible on such a cheap and bulky commodity, in order that as much as possible of it may be moved ; but they are by no means obliged to carry it at a loss in order that the producer may secure a fair return for his labor and capital. The commission adds that while rates should not be so low on any commodity as to impose a burden on other traffic, they should yet have "reasonable relation" to the cost of production and the value of the transportation service to the producer and the shipper, and "should be so adjusted as to secure the largest interchange of commodities."¹

With no comprehension of the difficulties here outlined, or of numberless others not even suggested, a body of inexperienced legislators is now at work on a maximum-rate law. Yet there is not as much to be feared from their action as many people suppose. It has already happened that a statute-made tariff has so operated to increase business that the roads have been benefited by it. At the worst the interests of roads are so bound up with those of the community as a whole, that a very injurious statute will hardly remain long in force.

IV.

The last biennial report of the attorney-general of Nebraska to the governor contains the following assertions :

There is no corner of this Union that is free from railroad influence in all political matters. It enters the doors of the merchants, the *sanctum sanctorum* of the press and the courts of our state and Union ;

¹ It is interesting to note that though the commission worked with unusual celerity in this investigation, and overruled in an almost arbitrary way certain motions of the attorneys for the roads which would have involved delay, yet the conditions on which the decision was based had largely passed away before it finally went into effect. When the investigation was ordered in February, 1890, the roads were blocked and the market was glutted with the largest corn crop ever produced in this country. While this investigation was in progress the last of this great crop was moving eastward ; and when the decision finally went into effect in October, an unusually short crop was beginning to be harvested. As value of product and volume of traffic are admittedly elements to be considered in fixing rates, the decision was manifestly out of date before it went into effect. So slow is our governmental machinery as compared with industrial changes that an exceptionally efficient commission only succeeded in shutting the stable-door after the horse was gone.

always taking an active part, from the election of a chairman of a board of village trustees to the election of a president of the United States, savagely holding back in its ranks those who would break from its corrupting embrace and deteriorating influences.

Though Attorney-General Leese is an habitual declaimer against railroads, yet the idea which underlies this curious bit of rhetoric is sufficiently well founded. Railroad influence or anti-railroad influence is well nigh omnipresent in Nebraska politics. The conference of anti-monopoly Republicans that met in Lincoln last May demanded, among other things, that the railroads should "go out of politics." For the railroads, compliance with this curious demand would be corporate suicide. They are the largest tax payers in the state, and are necessarily subject in countless ways to state regulations. Inasmuch as we are governed ultimately by elected officers, by caucuses and by primaries, it would be singular and unjust if such important interests as those of the railroads should be unrepresented in politics.

But while the presence of railroad influence in politics is justifiable, it must be admitted that many of the methods through which that influence is exerted are not. The testimony taken by the commission to investigate the affairs of the Union Pacific railway brought to light facts which would be worth re-stating, were they not exactly paralleled by investigations of the methods of Eastern corporations in influencing legislatures and primary assemblies of the people. Some of the more recent instances of corporate influence in Nebraska politics have been so notorious, that no investigation is necessary to reveal the methods used. At a state Republican convention held at Hastings in the autumn of 1889, the railroads made everything yield to their determination to defeat Mr. Reese, who was a candidate for re-election to the office of judge of the supreme court of the state. Railroad attorneys were on hand in unusual numbers, and the customary policy of keeping these paid agents of the roads as much as possible out of sight was abandoned. It seemed as if the roads wished to give the politicians of the state and the judges of the courts an intimidating object lesson in the power of the corporations

to control a convention. Many of the delegations that had been definitely instructed for Reese were induced wholly or in part to bolt their instructions. An alliance was made with a disbarred attorney, who hated Reese as the one mainly responsible for his disgrace. On the evening before the convention a railroad attorney was able to secure precedence over the wires for press despatches unfavorable to Reese. A country attorney, also in the pay of a railroad, who was a member of the convention on a proxy given by a candidate for another office, deliberately sacrificed that candidate in order to make a trade bearing on the judgeship. It cannot be said that Reese had been an especially able judge, or that Norval, whom the railroads finally nominated and elected, was an undesirable man for the place; but the manner in which the latter was placed on the bench has done much to destroy confidence in the impartiality of the supreme court.

Practically none of the stocks and bonds of the railroads in Nebraska are owned by Nebraskans. The owners and controlling officers of the roads are non-residents. This absenteeism increases the popular dislike of the roads. It is felt that any unearned profits not only injure individuals but impoverish the community as a whole, while the representatives of the roads within the state are looked upon as mere hirelings, owing to the companies duties which are inconsistent with good citizenship. All politicians therefore consider it advisable to take an attitude of hostility towards the railroads; but the favors it is in the power of the companies to confer are so great, that this hostility is oftenest in the attitude only. Outward opposition and secret subservience is thought to be the surest way to maintain one's position in state politics. In ordinary times the control of the roads over the political machinery of the state is so complete that few but their friends can obtain preferment; while in extraordinary times, such as the present, only those supposed to be hostile to the roads can hope for political success. The duplicity of the politicians annoys and at times may be said to infuriate the people. As one of "the people," I am myself certainly nonplussed in trying to decide which of the political candidates

most nearly represents my views on railroad questions ; so much at variance are the language and the actions of the politicians.

The adoption of underhand methods by the roads is usually taken as an admission that their political objects cannot be openly defended. While this may often be the case, yet there is frequently a more honorable explanation of their methods. The railroad manager frequently assumes and believes that his opponents are either not honest enough or else not intelligent enough patiently to study and solve the complicated railway problems of the time. He therefore considers himself called upon not only on behalf of his employers, but on behalf of the community as a whole, to bribe, intimidate, mislead or otherwise circumvent such opponents. Having first convinced himself that he understands the situation, and that his opponent cannot or will not, he then feels justified in resorting to underhand methods *pro bono publico*. But as a matter of fact the well informed railway official is as apt to be mistaken as are his opponents ; he is as likely to be blinded by his interests as are the farmers to err because of their ignorance.

The recklessness of Western legislatures comes largely from a feeling of desperation. Those whose interests are supposed to conflict with the interests of the roads have been so often foiled by open or secret means, that they begin to feel as though it was necessarily a fight to the death. The attitude of calm superiority assumed by many railroad officials increases this feeling. When an attorney for the Union Pacific tells with gusto of surprising a legislature into the unanimous passing of resolutions which the members did not understand, it makes an amusing story, but it does not commend him to the people when he makes a plea for justice to the road he represents. The Alliance members of the present legislature are said to be impervious to reason ; but they refuse to listen to any but their own leaders largely because they have been so often misled by special pleaders. The roads are reaping what they have sown.

Another important cause of recklessness on the part of the anti-monopolists is the example of recklessness too often set by the managers of the roads. If the paid officers of the com-

panies give so little heed to the interests of investors, how can it be expected that public officials should be more careful? It does not strike a legislator with very profound awe to tell him that a certain law will drive the roads into bankruptcy; he has seen many roads in that condition in consequence of the whims or selfish interests of their managers, and he fails to be appalled at the idea that a few more of them may become insolvent through his attempt to act in the interests of the general public.

It seems doubtful if there is any other way of settling the vexed questions of railway regulation than through the wasteful turmoil of angry political contention. The Granger legislation was wild enough in its way, but the men that passed it learned something by the experiment, as did also their opponents; and a railroad president has since admitted that "the Granger movement was a necessary one, and through its results has made a solution of the railroad problem possible in this country." An organization like the Farmers' Alliance may bring about much absurd and even mischievous legislation, but it is only by such organizing and experimenting that the farmers can learn what their real interests and those of the community demand. The experiments are less dangerous and the contentions less angry in proportion as reliable information is at hand to guide and moderate discussion. Such information can be secured only through a commission having stability and independence enough to command the respect of all parties. While the secretaries of the present board have done much arduous, intelligent and honest work, the board has apparently secured the confidence of no one, and the men who have learned something of the subject will be promptly turned adrift to make way for inexperienced workers. It has been predicted by a Nebraskan who has given the matter some study, that the end will come through general corporate bankruptcy, followed by state ownership of the roads. If there is to be any solution short of this, it must be reached by the patient gathering of information, and by a thorough-going revision of our whole system of corporation law.

A. G. WARNER.